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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/476,618	12/31/1999	DAVID W KURZYNSKI	15-IS-5297(7)	8075

7590

05/14/2004

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EXAMINER
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LEROUX, ETIENNE PIERRE

ART UNIT	PAPER NUMBER
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2171

12

DATE MAILED: 05/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/476,618

Applicant(s)

KURZYNSKI ET AL.

Examiner

Etienne P LeRoux

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 45-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

*Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 45-53 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,448,956 issued to Berman et al (hereafter Berman).

Claim 45:

Berman discloses:

- displaying a plurality of open medical images [Fig 2B, col 7, lines 1-15]
- unloading an unloaded message selected from at least one of the plurality of open medical images from the memory of the workstation [col 2, lines 4-12]
- saving display settings [inherently disclosed] of the unloaded image such that if the unloaded image is not closed and a user decides to redisplay the unloaded image, the unloaded image appears to have remained virtually open to the user as if the unloaded image had not been unloaded [col 7, lines 1-15]

Claim 46:

Berman discloses wherein the display settings are saved in the memory of the workstation [col 2, lines 38-56]

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Claims 47 and 51:

Berman discloses wherein the unloaded message is transferred to a storage device connected to the workstation by a network [col 2, lines 23-25].

Claim 48:

Berman discloses a method for managing a memory in a workstation when a size of user selected medical image files exceeds the memory capacity in the workstation, the method comprising the steps of:

opening a plurality of medical image files to display a plurality of medical images; prioritizing the plurality of medical image files using a prioritization scheme having at least three levels including a first level comprising a currently viewed medical image; a second level comprising medical images in a viewing stack; and a third level comprising medical images related to medical images with a higher priority; wherein the medical images from the first level are designated with a higher priority than the medical images of the second level and the medical images of the second level are designated with a higher priority than the medical images of the third level; and unloading from the memory of the workstation a medical image file having a lower priority than at least one of the open medical image files stored in memory, wherein the unloaded medical image file includes at least a portion of at least one of the open medical images [Fig 2B].

Claims 49 and 53:

Berman discloses wherein the third level only comprises open medical images related to open medical images from the first level [Fig 2B, col 3, lines 45-63].

Claim 50:

Berman discloses further comprising the step of saving the visual display settings of the unloaded medical image file such that if the unloaded medical image file is not closed and a user

decides to redisplay the unloaded image file, the unloaded medical image file appears virtually open to the user and as if the unloaded medical image file had not been unloaded [col 6, lines 40-50]

Claim 52:

Berman discloses a system for managing memory in a workstation when a size of user selected medical image file exceeds the memory capacity in the workstation, the system comprising: a processor configured to prioritize the user selected medical image file using a prioritization scheme having at least three levels including a first level comprising a current viewed medical image; a second level comprising medical images in a viewing stack; and a third level comprising medical images related to medical images with a higher priority; wherein the medical images from the first level are designated with a higher priority than the medical images of the second level and the medical images of the second level are designated with a higher priority than the medical images of the third level; and the memory configured to unload an unload medical image file having a lower priority than at least one of the user selected medical image files stored in memory, wherein the unload medical image file includes at least a portion of at least one of the user selected medical image files and wherein the processor is coupled to the memory [Fig 2B].

***Response to Arguments***

Applicant's arguments with respect to claims 45-53 have been considered but are moot in view of the new ground(s) of rejection.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (703) 305-0620.

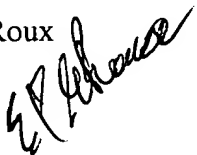
The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (703) 308-1436.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Etienne LeRoux

5/12/2004

A handwritten signature in black ink, appearing to read 'Etienne LeRoux', is written over the typed name and date.